

Congressman Cuellar's Statement on the Cole Amendment

- I do not support any enforcement measures that separate immigrant families as a deterrence measure, nor do I support any policy that does not take the best interest of the child into consideration.
- Smugglers and human traffickers exploit loopholes in our immigration laws and provide an incentive for immigrants to put themselves and their children in extreme danger to illegally cross our borders with the promise that they will be released from custody to live and work in the United States.
- The Cole Amendment takes the practical step to close one of these loopholes by ending the catch and release of family units by ensuring they are kept together pending the timely adjudication of their immigration cases.
 - Those who are released prior to their initial appearance before an immigration judge are placed on the backlogged docket of over 700,000 cases.
 - This results in a delay of due process and the ability of to quickly adjudicate their asylum claim before an immigration judge.

- According the Department of Justice, as of April 31, 2018, the nationwide grant rate for all asylum applications is approximately **22 percent**.
- I do not want people putting their children, or other children, at risk with the false hope of staying in the United States permanently.
- As our nation faces the challenges of remedying our broken immigration system, we must address the underlying causes behind these staggering numbers.
- In 2013, there were fewer than 15,000 family units apprehended crossing our border illegally between ports of entry. Five years later, it was more than 75,000.
- In June 2018 alone, 9,449 family units were apprehended, a 306 percent increase compared to June 2017.
- Of the nearly 100,000 parents and children who have sought asylum since 2014, court records show that immigration judges have issued rulings in only 32,500 cases. About 70 percent of those were *in absentia* deportation orders.

- To address the backlog of immigration cases and ensure due process, I have secured funding for over 165 immigration judges over the last three years.
 - In FY16, language hiring at least 55 new immigration judge teams, which includes judges, support staff, technology and work space, along with many other security measures to help process immigration cases and increase efficiency at the border;
 - In FY17, language hiring at least 10 judges;
 - In FY18, language hiring at least 100 judges.
- In the U.S. House of Representatives' fiscal year 2019 Commerce, Justice, Science (CJS) Appropriations Bill, I included funding to hire at least 100 new immigration judge teams, so that we can address this issue at the border, increasing our immigration court efficiency and ensuring that individuals are not detained indefinitely.
- The average time in immigration detention for a family unit is less than 20 days.
 - Each individual immigration case is unique.
Individuals can be held in custody for only a few days or depending on the circumstances, could be held for

months in order to ensure the due process of their asylum claim.

- Some of the factors that impact a family's time in custody stem from the due process afforded to each individual family member to have their case reviewed by an Asylum Officer or by an immigration judge.
- Families in immigration custody have full access to legal counsel that further aid them in their due process rights, to include seeking custody redeterminations, that often result in a quicker release from custody.
- Families, who are deemed to not be suitable for detention, based on but not limited to medical considerations, are reviewed on an individual basis by immigration officials for possible release on humanitarian reasons, further minimizing the family's time in custody.
- By law family unit members are eligible for a custody determination or redetermination hearing where it is decided if they will be released from immigration detention.
 - an alien ordinarily would be released unless he or she presented a threat to national security or is a flight risk

- ICE ensures its facilities follow ICE's National Detention Standards that ensure all detainees in ICE custody reside in safe, secure and humane environments and under appropriate conditions of confinement.
- One of my primary concerns as a member of the Appropriations Committee has been the safety and transparency of ICE detention facilities. I have secured a great deal of appropriations language that specifically addresses the oversight of these facilities.
- I can assure you that I could not have voted in favor of this amendment if I was not absolutely confident that ICE detention facilities are safe, humane, and protect detainees statutory and constitutional rights.
- Although we have accomplished our goal of preventing the administration from continuing family separations, we must also acknowledge the fact that the vast majority of children who are in HHS custody arrive to the US-Mexico border unaccompanied, without parents or guardians.
- In Fiscal Year 2018 through May, over 32,000 unaccompanied children who have put themselves in harm's way traveling to the United States for a chance at a better life have been apprehended by the U.S. Border Patrol.

- Thousands of these children have been subjected to abuse by smugglers and criminals during their journey. Many did not reach safety, falling victim to despicable human traffickers who profit from their forced labor and commercial sex.
- The June 26, 2018, U.S. District Court preliminary injunction prevents the Department of Homeland Security (DHS) from separating parents and legal guardians from their children.
- To comply with this injunction, revised DHS guidance limits the separation of parents or legal guardians from their children to only **four** reasons:
 - Referral of a parent/legal guardian for prosecution for a **felony**.
 - Parent/legal guardian presents a **danger to the child**
 - at risk for abuse, neglect, or exploitation
 - The parent/legal guardian has a **criminal conviction(s) for violent misdemeanors or felonies**.
 - The parent or legal guardian has a communicable disease.